

970.5232-7

970.5232-7 Financial management system.

As prescribed in 970.3270(b)(1), insert the following clause:

FINANCIAL MANAGEMENT SYSTEM (DEC 2000)

The Contractor shall maintain and administer a financial management system that is suitable to provide proper accounting in accordance with DOE requirements for assets, liabilities, collections accruing to the Contractor in connection with the work under this contract, expenditures, costs, and encumbrances; permits the preparation of accounts and accurate, reliable financial and statistical reports; and assures that accountability for the assets can be maintained. The Contractor shall submit to DOE for written approval an annual plan for new financial management systems and/or subsystems and major enhancements and/or upgrades to the currently existing financial systems and/or subsystems. The Contractor shall notify DOE thirty (30) days in advance of any planned implementation of any substantial deviation from this plan and, as requested by the Contracting Officer, shall submit any such deviation to DOE for written approval before implementation.

(End of clause)

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36376, 36378, 36380, July 22, 2009]

970.5232-8 Integrated accounting.

As prescribed in 970.3270(b)(2), insert the following clause:

INTEGRATED ACCOUNTING (DEC 2000)

Integrated accounting procedures are required for use under this contract. The Contractor's financial management system shall include an integrated accounting system that is linked to DOE's accounts through the use of reciprocal accounts and that has electronic capability to transmit monthly and year-end self-balancing trial balances to the Department's Primary Accounting System for reporting financial activity under this contract in accordance with requirements imposed by the Contracting Officer pursuant to the Laws, regulations, and DOE directives clause of this contract.

(End of clause)

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36376, 36378, 36380, July 22, 2009]

48 CFR Ch. 9 (10-1-12 Edition)

970.5235-1 Federally funded research and development center sponsoring agreement.

As prescribed in 970.3501-4, the contracting officer shall insert the following clause:

FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER SPONSORING AGREEMENT (DEC 2010)

(a) Pursuant to 48 CFR 35.017-1, this contract constitutes the sponsoring agreement between the Department of Energy (DOE) and the Contractor, which establishes the relationship for the operation of a Department of Energy sponsored Federally Funded Research and Development Center (FFRDC).

(b) In the operation of this FFRDC, the Contractor may be provided access beyond that which is common to the normal contractual relationship, to Government and supplier data, including sensitive and proprietary data, and to Government employees and facilities needed to discharge its responsibilities efficiently and effectively. Because of this special relationship, it is essential that the FFRDC be operated in the public interest with objectivity and independence, be free from organizational conflicts of interest, and have full disclosure of its affairs to the Department of Energy.

(c) Unless otherwise provided by the contract, the Contractor may accept work from a nonsponsor (as defined in 48 CFR 35.017) in accordance with the requirements and limitations of the clause 48 CFR 970.5217-1 Work for Others Program.

(d) As an FFRDC, the Contractor shall not use its privileged information or access to government facilities to compete with the private sector. Specific guidance on restricted activities is contained in DOE Order 481.1, Work for Others (Non-Department of Energy Funded Work), or its successor.

(End of clause)

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36376, 36378, July 22, 2009; 75 FR 68220, Nov. 5, 2010]

970.5236-1 Government facility sub-contract approval.

As prescribed at 48 CFR 970.3605-2, insert the following clause:

GOVERNMENT FACILITY SUBCONTRACT APPROVAL (DEC 2000)

Upon request of the Contracting Officer and acceptance thereof by the Contractor, the Contractor shall procure, by subcontract, the construction of new facilities or the alteration or repair of Government-

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owned facilities at the plant. Any sub-contract entered into under this paragraph shall be subject to the written approval of the Contracting Officer and shall contain the provisions relative to labor and wages required by law to be included in contracts for the construction, alteration, and/or repair, including painting and decorating, of a public building or public work.

(End of clause)

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36378, 36380, July 22, 2009]

970.5237-2 [Reserved]

970.5242-1 Penalties for unallowable costs.

As prescribed in 970.4207-03-70, insert the following clause:

PENALTIES FOR UNALLOWABLE COSTS (AUG 2009)

(a) Contractors which include unallowable cost in a submission for settlement for cost incurred, may be subject to penalties.

(b) If, during the review of a submission for settlement of cost incurred, the Contracting Officer determines that the submission contains an expressly unallowable cost or a cost determined to be unallowable prior to the submission, the Contracting Officer shall assess a penalty.

(c) Unallowable costs are either expressly unallowable or determined unallowable.

(1) An expressly unallowable cost is a particular item or type of cost which, under the express provisions of an applicable law, regulation, or this contract, is specifically named and stated to be unallowable.

(2) A cost determined unallowable is one which, for that Contractor—

(i) Was subject to a Contracting Officer's final decision and not appealed;

(ii) The Civilian Board of Contract Appeals or a court has previously ruled as unallowable; or

(iii) Was mutually agreed to be unallowable.

(d) If the Contracting Officer determines that a cost submitted by the Contractor in its submission for settlement of cost incurred is—

(1) Expressly unallowable, then the Contracting Officer shall assess a penalty in an amount equal to the disallowed cost allocated to this contract plus interest on the paid portion of the disallowed cost. Interest shall be computed from the date of overpayment to the date of repayment using the interest rate specified by the Secretary of the Treasury pursuant to Pub. L. 92-41 (85 Stat. 97); or

(2) Determined unallowable, then the Contracting Officer shall assess a penalty in an

amount equal to two times the amount of the disallowed cost allocated to this contract.

(e) The Contracting Officer may waive the penalty provisions when—

(1) The Contractor withdraws the submission before the formal initiation of an audit of the submission and submits a revised submission;

(2) The amount of the unallowable costs allocated to covered contracts is \$10,000 or less; or

(3) The Contractor demonstrates to the Contracting Officer's satisfaction that—

(i) It has established appropriate policies, personnel training, and an internal control and review system that provides assurances that unallowable costs subject to penalties are precluded from the Contractor's submission for settlement of costs; and

(ii) The unallowable costs subject to the penalty were inadvertently incorporated into the submission.

(End of clause)

[74 FR 36376, July 22, 2009]

970.5243-1 Changes.

As prescribed in 970.4302-1, the contracting officer shall insert the following clause in all management and operating contracts:

CHANGES (DEC 2000)

(a) *Changes and adjustment of fee.* The Contracting Officer may at any time and without notice to the sureties, if any, issue written directions within the general scope of this contract requiring additional work or directing the omission of, or variation in, work covered by this contract. If any such direction results in a material change in the amount or character of the work described in the "Statement of Work," an equitable adjustment of the fee, if any, shall be made in accordance with the agreement of the parties and the contract shall be modified in writing accordingly. Any claim by the Contractor for an adjustment under this clause must be asserted in writing within 30 days from the date of receipt by the Contractor of the notification of change; provided, however, that the Contracting Officer, if it is determined that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. A failure to agree on an equitable adjustment under this clause shall be deemed to be a dispute within the meaning of the clause entitled "Disputes."

(b) *Work to continue.* Nothing contained in this clause shall excuse the Contractor from proceeding with the prosecution of the work